

HOUSE BILL NO. 452

INTRODUCED BY K. WILLIAMS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MOTOR VEHICLE SALVAGE LAWS; REQUIRING
5 INSURERS TO NOTIFY OWNERS OF OPTIONS FOR SALVAGE VEHICLES; PROVIDING FOR ARBITRATION
6 IF INSURERS AND OWNERS DISAGREE AS TO SALVAGE; REQUIRING NOTIFICATION OF FUTURE
7 PURCHASERS OF SALVAGE VEHICLES; EXEMPTING MOTOR VEHICLES DAMAGED SOLELY BY HAIL
8 FROM BEING DECLARED SALVAGE VEHICLES; AMENDING SECTIONS 61-3-210, 61-3-211, AND 61-3-212,
9 MCA; AND PROVIDING A RETROACTIVE APPLICABILITY PROVISION."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **NEW SECTION. Section 1. Determination of salvage -- notification for salvage vehicle settlements**

14 **-- notification of future owner.** (1) If an owner and an insurer disagree as to the salvage condition and amount
15 of the insured loss or damage sustained by the owner's motor vehicle, when damaged by collision, fire, flood,
16 accident, trespass, or other occurrence other than hail, the owner may:

17 (a) refuse an insurance settlement on the motor vehicle;
18 (b) accept the insurance settlement; or
19 (c) notify the insurance commissioner of an intent to submit the matter to an arbitration committee, if
20 allowed by the insurer's bylaws. If an insurer and the owner agree to an arbitration committee, each may appoint
21 one member of the arbitration committee, with a third member chosen by the other two appointees. All members
22 of the committee shall swear to conduct an impartial investigation. The committee may examine witnesses and
23 determine all matters in the dispute. A decision must be in writing to the insurer and to the owner. The insurance
24 commissioner must be notified in writing of the decision.

25 (2) If an owner's motor vehicle has been damaged by hail to the extent that the owner, the insurer, or
26 another person acting on behalf of the owner determines that the cost of parts and labor makes it uneconomical
27 to repair the vehicle, the insurer may determine that the motor vehicle is a total loss but may not declare the motor
28 vehicle to be a salvage vehicle regardless of the age of the motor vehicle.

29 (3) For a motor vehicle that is less than 15 years old and that has been determined to be a salvage
30 vehicle as defined in 61-3-210, the insurer shall notify the owner of the motor vehicle that the owner has a choice

1 of:

2 (a) obtaining an insurance settlement that pays for the damage to the motor vehicle, in which case the
3 owner may either convey title to the insurer or retain the motor vehicle and apply for a salvage certificate of title
4 as provided under 61-3-211; or

5 (b) keeping the motor vehicle but declining the insurance settlement. An owner of a salvage vehicle
6 under this subsection (3)(b) remains subject to the provisions of 61-3-211.

7 (4) The insurer shall notify an owner of a motor vehicle that is 15 years old or older that the requirements
8 for a salvage vehicle do not apply, even if the cost of labor and parts makes repair of the motor vehicle
9 uneconomical.

10 (5) An insurer that receives a claim for damages on a motor vehicle shall notify the owner of a motor
11 vehicle that repairs on a damaged motor vehicle, even if not declared a salvage vehicle, may be entered into a
12 nationwide database that identifies those motor vehicles that have been repaired or have been in minor or major
13 accidents.

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15 **Section 2.** Section 61-3-210, MCA, is amended to read:

16 **"61-3-210. Definitions.** As used in this part, the following definitions apply:

17 (1) "Cab" means the passenger compartment of a truck or pickup truck. It is a unit of construction that
18 includes the top or roof and the cowl and may or may not include glass, instrumentation, the steering column, and
19 a seat or seats.

20 (2) "Center structure" includes the section of either a unibody or frame-type passenger motor vehicle that
21 consists of a unit of sheet metal that extends from the firewall to the back of the rear seat or the centerline of the
22 rear wheels. The structure may comprise the roof, side and rear window posts, cowl panel, dash panel, floor
23 pans, doors, and rocker panels if two or more of these parts are assembled together as one unit.

24 (3) "Component part" means the front-end assembly, center structure, or tail section of an automobile,
25 the cab of a truck, the bed of a 1-ton or lighter truck, the frame of a motor vehicle, or any part of a motor vehicle
26 that contains a vehicle identification number or a derivative of a vehicle identification number.

27 (4) "Frame" means the structure that supports the automobile body and other external component parts.

28 (5) "Front-end assembly" includes the hood, right front and left front fenders, grill, bumper, and radiator
29 supports if two or more of these parts are assembled together as one unit forward of the firewall.

30 (6) "Salvage certificate" means a certificate of title issued by the department for a salvage vehicle that

1 may be used to retitle the motor vehicle.

2 (7) (a) "Salvage vehicle" means a motor vehicle damaged by collision, fire, flood, accident, trespass, or
3 other occurrence to the extent that the owner, an insurer, or another person acting on behalf of the owner
4 determines that the cost of parts and labor makes it ~~uneconomical~~ to repair of the vehicle uneconomical.

5 (b) The term does not include a motor vehicle damaged only by hail even if the cost of parts and labor
6 make repair uneconomical.

7 (8) "Salvage vehicle purchaser" means a person, other than an insurer, who purchases or otherwise
8 obtains possession of a salvage vehicle.

9 (9) "Tail section" includes the floor pan, right rear and left rear quarter panels, deck lid, upper rear and
10 lower rear panels, and rear bumper if two or more of these parts are assembled together as one unit."
11

12 **Section 3.** Section 61-3-211, MCA, is amended to read:

13 **"61-3-211. Surrender of certificate of title -- issuance of salvage certificate -- salvage retitling**
14 **requirements -- notification to salvage vehicle purchaser.** (1) When an insurer acquires ownership of a motor
15 vehicle that is less than 15 years ~~of age~~ old and that has been determined to be a salvage vehicle, the insurer
16 shall apply for a salvage certificate on a form prescribed by the department. The application must be
17 accompanied by a certificate of title assigned to the insurer unless the application indicates that the insurer was
18 unable to obtain the certificate of title after making at least two attempts to do so following oral or written
19 acceptance by the owner of the salvage vehicle of the settlement offer for the salvage vehicle. If the certificate
20 of title or electronic record of title maintained by the department names one or more holders of a perfected
21 security interest in the motor vehicle, the insurer shall secure and deliver to the department or an authorized
22 agent a release from each secured party of the secured interest.

23 (2) A motor vehicle that is 15 years old or older is excluded from the provisions for a salvage vehicle in
24 61-3-212 and this section.

25 ~~(2)~~(3) The department shall issue a salvage certificate to the insurer within 5 working days of the date
26 of receipt of the application.

27 (4) Upon receipt of a salvage certificate issued by the department, an insurer may possess, retain,
28 transport, sell, transfer, or otherwise dispose of the salvage vehicle. The salvage certificate is prima facie
29 evidence of ownership of a salvage vehicle.

30 ~~(3)~~(5) If the insurer elects to sell a salvage vehicle before a salvage certificate is obtained under

1 subsections (1) and ~~(2)~~ (3), the insurer shall:

2 (a) complete a salvage receipt on a form prescribed by the department. ~~The insurer shall;~~

3 (b) deliver the original salvage receipt to the salvage vehicle purchaser only after a release has been
4 obtained from each secured party of any security interest in the salvage vehicle. ~~The insurer shall then;~~

5 (c) deliver to the department or an authorized agent a copy of the salvage receipt, any security releases,
6 and a certificate of title assigned to the insurer unless the insurer was unable to obtain the certificate of title after
7 making at least two attempts to do so following oral or written acceptance by the owner of the salvage vehicle
8 of the settlement offer for the salvage vehicle; and

9 (d) specifically state to the salvage vehicle purchaser that the motor vehicle is a salvage vehicle to which
10 the provisions of 61-3-212 and this section apply. The statement must include an explanation that a salvage
11 certificate of title or a rebuilt salvage certificate of title is required for the salvage vehicle prior to the salvage
12 vehicle being used on the state's highways, unless the salvage vehicle purchaser has a temporary registration
13 as provided in 61-3-224.

14 (6) Upon submission of the original salvage receipt by the salvage vehicle purchaser, the department
15 shall issue a salvage certificate to the salvage vehicle purchaser that is prima facie evidence of ownership. A
16 salvage certificate must be obtained before the salvage vehicle purchaser disposes of the salvage vehicle.

17 ~~(4)~~(7) If an insurer ~~determines~~ has paid a settlement to a motor vehicle owner after determining that a
18 motor vehicle is a salvage vehicle and that a the salvage vehicle will remain with the owner after an the agreed
19 settlement, the insurer shall notify the department or an authorized agent of the settlement on a form prescribed
20 by the department. Upon receipt of the notice, the department may require the owner to surrender the certificate
21 of title in compliance with this part, regardless of whether the owner's intent is to repair the salvage vehicle or
22 ownership of the salvage vehicle was obtained in a jurisdiction not requiring the surrender of the certificate of title
23 or a comparable ownership document.

24 ~~(5)~~(8) At the time of surrender of a certificate of title for a salvage vehicle not acquired by an insurer, the
25 department shall issue a salvage certificate to the owner. Upon receipt of a salvage certificate issued by the
26 department to a noninsurer, the owner may possess, retain, transport, sell, transfer, or otherwise dispose of the
27 salvage vehicle. A salvage certificate is prima facie evidence of ownership of a salvage vehicle.

28 (9) An owner who has retained a salvage motor vehicle as provided in subsection (7) shall, upon sale
29 or transfer of the salvage vehicle, notify the purchaser or person to whom the salvage vehicle is transferred that
30 the motor vehicle is a salvage vehicle, subject to a salvage certificate of title or a rebuilt salvage certificate of title.

1 ~~(6)~~(10) A fee of \$5 must be paid to the department for the issuance of a salvage certificate.

2 ~~(7)~~(11) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October
3 1, 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions
4 of 61-3-225."

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6 **Section 4.** Section 61-3-212, MCA, is amended to read:

7 **"61-3-212. Retitling salvage vehicles -- penalty.** (1) Prior to operating a salvage vehicle on the roads
8 and highways of this state, the owner shall present the motor vehicle and the salvage certificate, if one has been
9 issued, or the certificate of title, the appropriate receipts or bills of sale establishing ownership, and the source
10 of component parts used to rebuild the motor vehicle to a department employee or designated peace officer for
11 inspection, as provided in 61-3-223. An owner may obtain a temporary registration permit under 61-3-224 for the
12 purpose of moving a salvage vehicle to and from the designated inspection site.

13 (2) ~~(a)~~ The inspector shall:

14 (a) inspect the motor vehicle to verify the identity of the motor vehicle; and

15 ~~(b) The inspector shall~~ verify that the component parts used to rebuild the motor vehicle are evidenced
16 by traceable receipts or bills of sale and that there are no indications that the motor vehicle or any of its parts are
17 stolen. Documentation provided by the owner or employee of a wrecking facility licensed under the provisions
18 of Title 75, chapter 10, part 5, is prima facie evidence of the facts stated in the documentation.

19 (3) Following inspection and prior to operating the motor vehicle on the roads and highways of this state,
20 the owner shall apply for a ~~new~~ rebuilt salvage certificate of title by submitting the application, the salvage
21 certificate, receipts or bills of sale, and a copy of the inspection report to the department.

22 (4) Upon receipt of the application, required documentation, and payment of the fee required in 61-3-203,
23 the department shall issue a ~~new~~ certificate of title with the words "rebuilt salvage" on the face of the certificate
24 of title.

25 (5) A person failing to comply with the provisions of this part is guilty of a misdemeanor and upon
26 conviction shall be fined an amount not to exceed \$500. The salvage vehicle purchaser shall produce the salvage
27 certificate upon request of a public official legally entitled to request the certificate.

28 (6) A person may not operate or use a salvage vehicle on the roads or highways of this state except when
29 unless appropriately titled with a salvage certificate of title, a rebuilt salvage certificate of title, or under a
30 temporary registration permit that has been issued as provided in subsection (1)."

